

Application Number 10/617,627  
Responsive to Office Action mailed February 15, 2006

### REMARKS

This amendment is responsive to the Office Action dated February 15, 2006. Applicants amended claim 1 and added claim 5. Claims 1-17 are pending.

As a preliminary matter, the Examiner has failed to provide arguments that would allow the Applicants to provide a detailed and reasoned response to further the prosecution of the application. Applicants point out that the Examiner is required to provide "reasons for [a] rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application."<sup>1</sup> Applicants submit that the Office Action dated February 15, 2006 fails to meet this standard. In the event the Examiner continues to reject to the pending claims, Applicants request that the Examiner provide greater detail in subsequent office actions regarding such rejections. In particular, the Applicants request the Examiner point to specific elements in the prior art that he deems to meet elements recited in the Applicants' claims and correlate the specific elements in the prior art to such elements recited in the Applicants' claims.

### Traversal of Alleged Applicant's Admitted Prior Art (AAPA)

The outstanding Office Action cites to portions of the present application and alleges those portions as AAPA. However, a feature of the invention that can be gleaned only from Applicants' disclosure **may not be used against Applicants as prior art, unless the specification includes an admission that the subject matter forming the basis of the rejection is in the prior art.**<sup>2</sup> The outstanding Office Action concludes that the cited portions of the present application are AAPA **without providing any objective evidence that such an admission is made.** As a result, the claim rejections are unsupported and cannot stand.

Furthermore, even assuming there is an admission, there is no objective evidence of record to show that the AAPA is more than one year before the priority date of the present application. Without such objective evidence, the claim rejections are unsupported and also cannot stand.

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<sup>1</sup> 35 U.S.C. 132(a).

<sup>2</sup> See *In re Wertheim*, 191 USPQ 90, 102 (CCPA 1976) (emphasis added).

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**Claim Rejection Under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 1-2, 4, 6-9, 11-17 under 35 U.S.C. 102(b) as being anticipated by Applicants' Admitted prior art. Applicants respectfully traverse the rejection. As explained above, Applicants do not acquiesce to the Examiner's characterization of the Background section of the Applicant's specification as being admitted prior art. Furthermore, the Background section of the Applicant's specification fails to disclose each and every feature of the claimed invention, as required by 35 U.S.C. 102(b), and provides no teaching that would have suggested the desirability of modification to include such features.

Applicants' claimed invention is clearly different than the Background section of the Applicant's specification. For example, with respect to independent claim 1, the Background section of the Applicant's specification does not mention, suggest or otherwise disclose a transformed error detection code syndrome, much less calculating a transformed error detection code syndrome. The Examiner failed to identify with specificity what elements from the Background section of the Applicant's specification art he deems to meet the elements of calculating a transformed error detection code syndrome; therefore, Applicants are unable to provide an argument to refute the Examiner's characterization.

Furthermore, with respect to claim 4, the Background section of the Applicant's specification fails to disclose or suggest, for example, wherein the transformed error detection code syndrome calculating step comprises steps of generating an error detection code multiplier, generating a non-transformed error detection code syndrome, and multiplying the error detection code multiplier by the non-transformed error detection code syndrome.

With respect to independent claim 8, the Background section of the Applicant's specification fails to disclose or suggest, for example, a transformed error detection code (EDC) syndrome generator. The Background section of the Applicant's specification also fails to disclose or suggest, for example, transforming the data in a transformed error detection code (EDC) syndrome generator into a transformed error detection code syndrome. Again, the Examiner failed to identify with specificity what elements from the Background section of the Applicant's specification he deems to meet the elements of transforming the data in a transformed error detection code (EDC) syndrome generator into a transformed error detection

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code syndrome; therefore, Applicants are unable to provide an argument to refute the Examiner's characterization.

With respect to independent claim 16, the Background section of the Applicant's specification fails to disclose or suggest, generating an error correction code for data using a first symbol size, and generating an error detection code for the data using a second symbol size different from the first symbol size. The Examiner failed to identify with specificity what elements from the Background section of the Applicant's specification he deems to meet the elements of generating an error correction code for data using a first symbol size, and generating an error detection code for the data using a second symbol size different from the first symbol size; therefore, Applicants are unable to provide an argument to refute the Examiner's characterization.

The Background section of the Applicant's specification fails to disclose each and every element set forth in independent claims 1, 8 and 16. Dependent claims 2, 4, 6, 7, 9, 11-15 and 17 are allowable for at least the reasons independent claims 1, 8 and 16 are allowable. For at least these reasons, the Examiner has failed to establish a prima facie case for anticipation of Applicants' claims 1-2, 4, 6-9, 11-17 under 35 U.S.C. 102(b). Withdrawal of this rejection is requested.

#### **Claim Rejection Under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected claims 3 and 10 under 35 U.S.C. 103(a) as being unpatentable over Applicants' Admitted Prior Art in view of Williamson (US 5,905,740). Applicants respectfully traverse the rejection. As explained above, Applicants do not acquiesce to the Examiner's characterization of the Background section of the Applicant's specification as being admitted prior art. Furthermore, the applied references fail to disclose or suggest the inventions defined by Applicants' claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

As discussed previously, the Background section of the Applicant's specification fails to disclose or suggest calculating a transformed error detection code syndrome as recited by independent claim 1. Williamson also fails to disclose or suggest calculating a transformed error detection code syndrome. For this reason, the Background section of the Applicant's

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specification in view of Williamson fails to disclose or suggest the subject matter of claim 1 and, therefore, necessarily fails to disclose or suggest the subject matter of claim 3 as well.

The Background section of the Applicant's specification fails to disclose or suggest transforming the data in a transformed error detection code (EDC) syndrome generator into a transformed error detection code syndrome as recited by independent claim 8. Williamson also fails to disclose or suggest transforming the data in a transformed error detection code (EDC) syndrome generator into a transformed error detection code syndrome. For this reason, the Background section of the Applicant's specification in view of Williamson fails to disclose or suggest the subject matter of claim 8 and also the subject matter of claim 10.

For at least these reasons, the Examiner has failed to establish a prima facie case for non-patentability of Applicants' claims 3 and 10 under 35 U.S.C. 103(a). Withdrawal of this rejection is requested.

#### **Rejection for Obviousness-type Double Patenting:**

The Examiner provisionally rejected claims 1 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 of copending Application No. 10/390,996.

Applicants note the provisional status of this rejection. Accordingly, Applicants will address this issue if and when the rejection is formally applied.

#### **New Claim**

Applicants have added claim 5 to the pending application. The applied references fail to disclose or suggest the inventions defined by Applicants' claim 5, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed inventions. No new matter has been added by new claim 5.

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### CONCLUSION

All claims in this application are in condition for allowance. Applicants respectfully requests reconsideration and prompt allowance of all pending claims.

Applicants does not acquiesce with any of the Examiner's current rejections or characterizations of the prior art, and reserves the right to further address such rejections and/or characterizations.

Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

May 11, 2006

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